

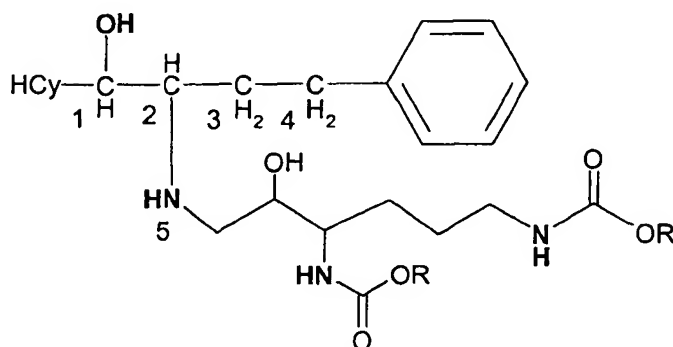
Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Initially, Applicants respectfully traverse the Examiner's requirement that all claims be amended to the elected group. This traversal is based on the following considerations.

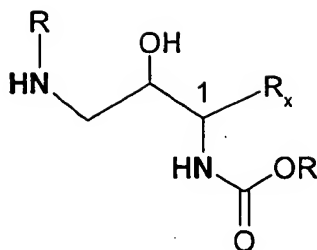
The Examiner takes the position that the species set forth on page 2 of the Office Action is disclosed in the newly cited Leger et al. reference (inadvertently referred to by the Examiner as Chamberland et al.), i.e. US 6,436,980. However, Applicants respectfully submit that the compound set forth on page 2 of the Office Action is not disclosed by Leger et al.; and furthermore, contrary to the position taken by the Examiner, this compound does not fall within the scope of claim 1 of the present application.

Thus, abbreviating the heterocycle group on the left side of the compound on page 2 of the Office Action as “HCy”, the compound set forth by the Examiner has the formula:

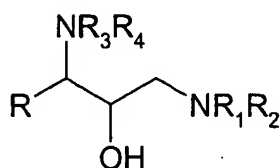


This compound does not fall within the scope of claim 1 of the present application, for the following reasons:

- a) If in the Examiner's prior art formula HCy (HCy = heterocyclyl) corresponds to R in the presently claimed compounds, then the distance to the first NH in the instant formula does not fit with the first NH in the Examiner's prior art formula (marked as position 5).
- b) If in the Examiner's prior art formula phenyl corresponds to the instant R group (as unsaturated carbocyclic), then the distance to the first NH in the instant formula does not fit as well with the first NH in the Examiner's prior art formula (marked as position 5).
- c) If we take the following extract of the Examiner's prior art formula:



and compare it with a corresponding extract of the instant formula of claim 1:



and assume that R_3 and R_1 are hydrogen, then there is the problem that the Examiner's prior art formula bears the radical R_x marked as position 1 in the formula.

In view of these considerations, the Examiner is requested to (1) identify where the compound on page 2 of the Office Action is found in the Leger et al. reference, and (2) explain how the compound on page 2 of the Office Action falls within the scope of claim 1 of the present application.

Claims 1-7 and 10-13 have been rejected under the second paragraph of 35 U.S.C. §112, for the reason set forth beginning on page 3 of the Office Action. In response to this rejection, claims 7 and 10-13 have been amended to change "preparation" to --composition--, rendering the rejection moot. Thus, amended claims 7 and 10-13 are consistent with the Examiner's interpretation of these claims as being directed to a "pharmaceutical composition". [Although the instant rejection is also applied against claims 1-6, this seems to be inappropriate because these claims are directed to compounds, rather than a pharmaceutical preparation as referred to by the Examiner.]

Amended claims 7 and 10-13 further include "a pharmaceutically inert, inorganic or organic excipient", based on the disclosure at page 19, line 1 of the specification.

In response to the rejection of claims 1-7 and 10-13 under the first paragraph of 35 U.S.C. §112 on page 4 of the Office Action, claim 1 has been amended to delete reference to the "prodrug", rendering the rejection moot.

Claim 3 has been amended to replace the comma at the end of this claim to a period.

Claim 6 has been amended to place it in more conventional "method of use" format according to U.S. practice.

New claim 14 has been added to the application, and is also directed to a method of use for the compounds of claim 1, and specifically the use recited in claim 9.

The Examiner has provisionally rejected claims 7 and 10-13 for obviousness-type double patenting as being unpatentable over claim 6 of Serial No. 11/488,858, and claim 20 of Serial No. 11/488,860.

With regard to the double patenting rejection based on Serial No. 11/488,860, Applicants take the position that this rejection should be withdrawn because "R-C(=R₆)-CH₂-" in the '860 application cannot overlap with, and does not suggest, "R-X₂-NH-X₁" in formula (I) of the present application.

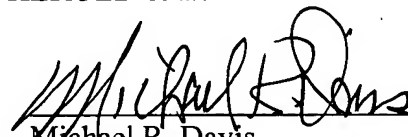
Insofar as the double patenting rejection is based on Serial No. 11/488,858, the Examiner is kindly requested to hold this rejection in abeyance pending an indication that the claims of the present application are otherwise in condition for allowance.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

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